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Constructive Controversy: Rhetoric as Dissensus-oriented Discourse

Controversia Constructiva: La retórica como discurso de disenso orientado

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Abstract: Current theories of argumentation underestimate the difference, emphasized already by Aristotle, between theoretical and practical (action-oriented) argumentation. This is exemplified with the argument theories of Toulmin, pragma-dialectics, Habermas, Walton, and Perelman. Since antiquity, rhetoric has defined itself, not as argument designed to “win,” but as action-oriented argument. Several distinctive features of action-oriented argument are identified. One is that its warrants include value concepts in audiences, implying an element of subjectivity in argument assessment. Between individuals, but also inside each individual, several conflicting value dimensions are typically involved, not just the dimension of truth-falsity, which makes sustained, reasonable dissensus inevitable.

Keywords: Rhetoric, practical argumentation, deliberation, incommensurability, dissensus.

Resumen: Las actuales teorías de la argumentación desestiman la diferencia, enfatizada ya por Aristóteles, entre argumentación teórica y argumentación práctica (acción-orientada). Esto se ejemplifica en teorías como las de Toulmin, la pragma-dialéctica, la de Habermas, Walton y Perelman. Desde la antigüedad, la retórica se ha definido como un argumento orientado a la acción, y no como un argumento diseñado para “ganar”. Se pueden distinguir muchas características de la retórica en tanto forma argumentativa orientada a la acción. Una es que sus garantías incluyen conceptos ya valorados por la audiencia, que implican un elemento de subjetividad. Entre los individuos, pero también dentro de cada individuo, varios conflictos de valor están envueltos, no solo en la dimensión verdad-falsedad, que hacen del disenso algo razonablemente inevitable.

Palabras clave: Retórica, argumentación práctica, deliberación, inconmensurabilidad, disenso.

All those of us who are interested in the theory of argumentation cannot and should not try to describe all kinds of argumentation with one model or one theory. I believe that numerous misunderstandings and mistakes which argumentation theorists have been guilty of, in the past as well as today, can be put down to a misguided attempt to develop one great theory that is supposed to account for all the essential characteristics of all argumentation.

It is not that there is anything wrong *per se* with such strong and comprehensive theories of an entire domain. It would be wonderful to have one if it worked. But such theories rarely do; nevertheless we often let them mislead us into making naive initial assumptions which we cling to and do not really question or investigate because we are too busy working on our theory so that it may be thought to cover the entire domain.

To be more specific, I will claim that there are certain fundamental differences between argumentation about what is true, on the one hand, and on the other hand, argumentation about what to do. Philosophers since Aristotle have designated this same difference with the terms theoretical reasoning vs. practical reasoning. Historically, philosophers have been predominantly concerned with theoretical reason, but at least many of them have been aware of this difference. Arguably, however, many thinkers and educators who have made argumentation their chief interest have tended to forget this difference in their eagerness to cover the whole domain of argumentation with one theory.

I will first comment briefly on a few of the leading theories and theorists of argumentation. My view is that what each of these has given us is essentially *either* a theory that applies well to theoretical argumentation, *or* a theory that applies well to practical argumentation. But all of them have believed that one grand theory could encompass the essential features of argumentation as such; none have thought that there were fundamental differences between theoretical and practical argumentation. Hence, they have done little to explore these differences. I will try to do a little more.

The argumentation theory of Stephen Toulmin, centered on the famous argument model (Toulmin 1958), is a case in point. The model has been used to map and to teach all kinds of argumentation, whether theoretical or practical, and perhaps especially practical argumentation, since that is what students in schools and colleges most call for and need. This has been done, also by Toulmin himself (cf. Toulmin *et al.*, 1979), despite the fact that

Toulmin's theory and model were primarily meant to elucidate argumentation as it occurs in science and scholarship. That becomes clear when we read *The Uses of Argument* in the context of those of Toulmin's other writings (e.g., 1961, 1985, 1990, 2001) whose focus is his campaign against the Cartesian idea of deductive certainty and universality as criteria for reasoning in all scientific fields. Instead, Toulmin argues that each science, each field, has its own rules and warrants; hence there are many different *kinds and degrees* of validity in reasoning, depending on field. On the other hand, it is arguably a common feature of scientific and scholarly reasoning in any field that its basic building blocks are those found in Toulmin's famous model: claims, grounds, warrants, backing, qualifiers and rebuttals. If so, the model captures essential features of any true piece of academic reasoning, including those attempted by students in papers and theses, etc. And thus the most natural educational use of the model is in the teaching of academic writing.

This claim (which has been developed in Hegelund and Kock, 2000, 2003a) may be supported with a few examples of how the model usefully illustrates, on the one hand, the way academic writing in a given field, in order to qualify as such, ought to contain instantiations of the six elementary components of argument; on the other hand, for each theoretical field, how the instantiations of them will be different. For instance, in historical scholarship an argument will typically use so-called sources as grounds to argue for a claim about the past. The warrant here will typically be what historians call source criticism (*Quellenkritik*, as Leopold von Ranke called it). Warranted by proper source criticism, historical data will give a certain kind and degree of validity to a claim. The theoretical backing for these warrants has been formulated by Ranke and others thinkers who have theorized about historical method.

Another example: In quantitative fields where statistical tests and the like are used as grounds for a claim, the warrants that confer a specific kind and degree of validity on them consist in statements about the internal and external validity of the samples and other aspects of study design, about the appropriateness of the tests used, etc. Backing for these warrants is supplied by theoretical thinking, much of it developed by Sir Ronald Fisher and later scholars in statistics. In all scholarly fields, we must also have qualifiers, rebuttals and other types of discussion of reasonable objections, etc. So

the Toulmin model well reflects what is expected of scholarly argument in a given field, while also allowing for the differences between concepts and norms of validity across fields.

But by the same token it is also clear that Toulmin's model is less well fit to represent what we call practical argumentation, i.e., arguments about what to do. For one thing, such reasoning typically does not discuss its own warrants; the explicit discussion of warrants, possibly with backing and all the rest, is precisely what sets academic reasoning apart. Students given the Toulmin model in order to analyze a piece of everyday practical reasoning will often look in vain for these typically academic elements, and they may then, in frustration, endow a more or less arbitrary sentence in the text with the status of "warrant." This illustrates our general thesis: theoretical reasoning is a species apart; taking a model meant to capture the essential features of theoretical reasoning in science and scholarship and expecting it to perform as well in practical and everyday argumentation is problematic.

It may be objected that much of Toulmin's later thinking (in particular in Jonsen & Toulmin, 1988, as well as several smaller works, such as 1981) does focus on a distinction between theoretical and practical reason. This is particularly so where Toulmin engages questions of medical ethics; here, theoretical and practical reason are described as "two very different accounts of ethics and morality: one that seeks eternal, invariable principles, the practical implications of which can be free of exception or qualifications, and another which pays closest attention to the specific details of particular moral cases and circumstances" (Jonsen & Toulmin, 1988, 2). Notice again Toulmin's persistent anti-universalist stance in the rejection of "invariable principles" and his respect for "particular moral cases" and "casuistry" (a term that inspired the book's title); but where the emphasis in *The Uses of Argument* was on the distinctness of warrants in each cognitive field, the distinction that he and Jonsen now draw accentuates the individual case where action must be decided on. Warrants according to the 1958 model, while field-dependent, are general and cannot provide decisions in the hard cases that, e.g., medical ethics encounters. One reason why this is so is that specific cases cannot always be subsumed with certainty under any given principle (or warrant): "presumptive conclusions can have 'certitude' only when the relevance of the concepts or terms involved is not in doubt" (1988, 327). Another difficulty is that in any given case, several principles (war-

rants) may be relevant simultaneously, requiring reasoners to “strike equitable balances between varied considerations in ways relevant to the details of each particular set of circumstances” (1988, p. 306). The existence, in practical reasoning, of conflicting considerations that are simultaneously valid, is, as we shall see below, a major difference between practical and theoretical reasoning. In fact Toulmin had been aware of these kinds of difficulties ever since his first book, *An Examination of the Place of Reason in Ethics* (1950), which has, for example, the following statement: “Given two conflicting claims ... one has to weigh up, as well as one can, the risks involved in ignoring either, and choose ‘the lesser of two evils.’ Appeal to a single current principle, though the primary test of the rightness of an action, cannot therefore be relied upon as a universal test: where this fails, we are driven back upon our estimate of the probable consequences” (1950, p. 147). But the fact remains that the theory and model for which he is most famous belong to a line of thought and a segment of his career where his overriding concern was the field-dependency of warrants in theoretical reasoning.

Pragma-dialectics (most recently and authoritatively set forth in van Eemeren and Grootendorst, 2004) is another influential theory in our time which has the advantage of capturing features (or rather: norms) of theoretical argument – yet I argue that it too has problems with practical argument. One of its main tenets is that argumentation is always in principle a critical discussion between a protagonist and an antagonist, where the protagonist seeks to defend a thesis against the antagonist’s objections and critical questions. This view is inspired by the critical rationalism of Karl Popper and provides a useful model of the way academic argumentation *ought* to proceed. Another tenet is that the goal of critical discussion is always to resolve a difference of opinion between protagonist and antagonist, i.e., to reach consensus. This too reflects the way things ought ideally to be in scholarly discussion, because scholarly discussion is essentially theoretical argumentation. But for practical argumentation this model does not hold, as we shall see.

An important thinker about argumentation who has received too little attention from argumentation theorists is Jürgen Habermas. He, unlike the pragma-dialecticians, is strongly aware of differences between various types of claims that people may argue for. In what we call practical argumenta-

tion we do not argue, as Habermas makes clear, about the truth of propositions, but about actions, and so the warrants that we appeal to are not propositions that we hold to be true, but norms of action that we hold to be *right*. The rightness of certain norms is a very different kind of validity claim (*Gültigkeitsbedingung*, as Habermas calls it), from the truth that validates constative speech acts. And both are different from the sincerity that validates expressive self-representations and from the adequacy of value standards that validates evaluative expressions.

Argumentation theorists would do well to heed the distinctions that Habermas lays down here. Of particular importance in this context is Habermas' insistence that the validity claim of a proposal for action is not the truth of a premiss but *rightness* according to some norm. However, his main thrust is to say that even though a proposal for action makes a different kind of validity claim, it is still subject to a 'communicative rationality' whose goal is for the discussants to reach consensus on right action thanks to the paradoxical "unforced force of the better argument". So, regarding the orientation towards consensus, Habermas essentially holds the same view as the pragma-dialecticians and sees no difference between the various types of speech act that he has defined. He sums up his theory as follows:

actions regulated by norms, expressive self-representations, and also evaluative expressions, supplement constative speech acts in constituting a communicative practice which, against the background of a lifeworld, is oriented to achieving, sustaining, and renewing consensus – and indeed a consensus that rests on the intersubjective recognition of criticizable validity claims (1997, 17).

Habermas, in his thinking about communicative action, anticipated the pragma-dialecticians by insisting that argumentation should be guided by certain procedural rules of reasonableness or rational communication; these rules exist to ensure that the speech acts performed by discussants do not obstruct the inherent goal of the argumentative dialogue: consensus; and they primarily require that discussants are under no force or constraint except the paradoxical "unforced force of the better argument."

According to Habermas all this should equally be the case in theoretical

argumentation *and* in practical argumentation. But while there is certainly a need for norms of reasonableness in practical argumentation, for example in public political debate, it does not follow that the goal of such debates is or should be consensus, nor that the compliance with such norms will lead towards consensus. In taking this view, one confronts formidable opposition among present-day thinkers. Not only is there the pragma-dialectical school and the many argumentation theorists who tend to go along with it; in addition, a broad range of political, philosophical and rhetorical thinkers in our time who have attempted to ground the legitimacy of democracy in deliberation and debate have assumed that the inherent aim of deliberation is consensus. Besides Habermas, this includes, in various ways, political theorists like Joshua Cohen (e.g., 1989, 1993, 1998), Joseph Bessette (1994), and Seyla Benhabib (e.g., 1994, 1996), or a rhetorician like Thomas Goodnight (e.g., 1993).

What unites all these theories is the idea that in practical argumentation as well as in theoretical argumentation, if we have a truly rational, critical discussion, we will eventually or at least tendentially approach a resolution to our difference of opinion; in these theories, the right action exists as a potential inference from the accepted premisses and the agreed rules of reasonable discussion.

Another version of a theory that sees practical argumentation as merely a special kind of inference has been proposed by Douglas Walton. As one of the few philosophical argumentation theorists today, Walton recognizes practical argumentation as a separate domain (Walton, 1990; 1996a, p. 11-13, 176-180; 1996b; 1997b). What many other theorists have overlooked is the simple fact that in practical reasoning people argue about an action, not about a proposition or assertion. But my objection to Walton's analysis is that he never decisively abandons the assumption that practical reasoning is about propositions, and so he never questions the assumption that what we argue for in practical reasoning follows as a conclusion or inference from a properly applied argument scheme, the way a proposition follows from its premisses by inference. Consider the following formulations: "In a practical inference, the conclusion is an imperative that directs the agent to a prudent course of action" (1996a, 11); "it concludes in an imperative that directs the agent to a course of action" (1990, xi). Here we have, as in propositional logic, the notions of "inference" and of a "conclusion," as well as two

additional indications of the binding nature of this conclusion: it is an *imperative* which *directs*. Walton's model of practical reasoning, and hence also of how to evaluate arguments in that domain, is an inference model: what to do follows as an inference. However, as Walton has emphasized in many contexts, the inference in practical argumentation is *presumptive* or *defeasible*. If there is a good argument for doing something, it follows that we should do it – *unless* there are other considerations which then cancel out the argument. It is, as he would say, subject to defeat; what was a valid argument becomes defeated or invalid. In other words, a good argument in practical argumentation is good if the conclusion follows from it – presumptively, that is.

Although Walton has done much to elucidate practical argumentation, this is a serious problem in his theory: arguments in practical argumentation *either* trigger an inference, *or* they are invalidated. I shall argue that practical argumentation is not like that (for a fuller version of this critique, see Kock 2007).

To be sure, a recent development in Walton's work on practical argumentation (see, e.g., Walton 2006) takes a long step towards repairing the shortcomings of his earlier conception. In particular, he now clearly recognizes that the conclusion in what he calls "deliberation dialogue" is a *proposal*, not a proposition, and that a proposal is a distinctive kind of speech act, of which he then presents a careful analysis. Also, the same paper contains, among other things, a valuable overview of the criteria and critical questions that may be invoked in deliberation dialogue and in the evaluation of it. The dependence of deliberation on values is theorized, and so is the existence of simultaneous pro and con arguments. However, the paper does not recognize that the notions of inference and presumption in deliberation are called into question by this new approach, and most of the distinctive features of argumentation in deliberation dialogue which will be discussed below, and all of which are corollaries of the basic properties just mentioned, remain largely unaddressed.

The last leading theorist I will mention in this overview is Chaïm Perelman. He differs from all the others in the sense that what his theory is really about is practical argumentation. This is not quite clear in *The New Rhetoric* (Perelman & Olbrechts-Tyteca 1969), which often claims to be a theory of *all* argumentation. This work is somewhat vague on the distinc-

tion between argumentation for truth and argumentation for action, and hence it repeatedly describes argumentation, the domain of rhetoric, as what we do to gain “adherence to a thesis”. But in Perelman’s later writings (e.g., 1979, which is titled “The New Rhetoric: A Theory of Practical Reasoning”) he is more explicit that what he is concerned with is indeed “practical reason” – defined as “the actual process of deliberation that leads to decision making in practical fields such as politics, law, and morals” (1083) or as “finding good reasons to justify a decision” (1099). He even states explicitly that “it is highly unlikely that any reasoning from which we could draw reasons for acting could be conducted under the sign of truth” (1086).

When Perelman defines rhetoric or argumentation as reasoning about actions decisions, he is in unison with the dominant rhetorical tradition itself. For Aristotle, what we do in rhetoric is to deliberate, βουλευεῖν, and he makes it clear that “the subjects of deliberation are clear; and these are whatever, by their nature, are within our power and of which the inception lies with us,” in other words, what we may decide to do. The same idea is stated repeatedly in his ethical writings: “We deliberate about things that are in our control and are attainable by action” (1112a). A similar demarcation of the realm of rhetoric occurs in most of the later sources, such as the *Rhetorica ad Herennium*, which states: “The task of the public speaker is to discuss capably those matters which law and custom have fixed for the uses of citizenship,” or Boethius, to whom the subject matter of rhetoric is explicitly “the political question.” (A fuller discussion of the action-based definition of rhetorical argument in the rhetorical tradition itself is found in Kock 2009.)

We may note here that most modern argumentation theorists who have discussed rhetoric have misunderstood what the classical conception of rhetoric is. They see rhetoric as that kind of argumentation where the main object is to win the discussion, not to find the truth. But rhetoricians primarily define their discipline as concerned with argument about actions; and that is why, in a sense, rhetorical argumentation is unconcerned with truth, since actions are neither true nor false.

What we have seen now is that a series of leading thinkers in the field of argumentation are all guilty of a hasty generalization: they all believe *either* that all argumentation works pretty much along the lines of theoretical argumentation, *or* (in the case of Perelman in *The New Rhetoric*) the other

way around. I will not try to point out some deep differences between these two basic domains.

We may start with the well-known observation that practical argumentation so often leaves out explicit statements of the warrant and its backing. This is because the grounds we give in practical reasoning for a proposed action are typically different from those used in theoretical argumentation. These grounds are generally alleged *advantages* of doing the action or alleged *drawbacks* of not doing it. And an advantage relies for its warrant on something we assume is already present in our audience: a *value concept* we believe we share with that audience. If we say that a given plan will bring peace to the Middle East, we take for granted that our audience values peace in the Middle East, and peace generally. If a friend or family member suggests that we watch a DVD of the film *American Pie* tonight, we might argue against this by saying that *American Pie* is vulgar, thereby taking for granted that the circle of friends or family members share a negative valuation of vulgarity. In other words, the ultimate warrants in practical argumentation are value concepts, and these we often assume are already present in our interlocutors, so that we do not have to establish them, not even make them explicit.

This is why practical reasoning about worldly concerns is full of *enthymemes*. That is Aristotle's term for a premiss which is assumed to be present in the hearer's mind – and just that is the original meaning of the word. The feature that an enthymeme is often left unexpressed is not essential (for an authoritative statement of this view, see Burnyeat 1996). An enthymeme is something which is already in the *thymos*, i.e., "in the soul," of the hearer.

So warrants in practical argumentation are value concepts located in audiences. From this follows another fact which some theorists find scandalous (notably the pragma-dialecticians, in several statements), namely that these warrants are *subjective*: they vary across individuals. Some individuals might think that vulgarity, although quite bad, is not *such* a bad thing, so they might agree to watch a film which has some vulgarity in it if it also has other, redeeming qualities. Others again might actually find that the kind of vulgarity to be found in *American Pie* is in fact appealing, not appalling.

Another example illustrating the same point, but this time on the level

of national policy, might be laws which curtail people's right to privacy in order to promote security against terrorism. Some individuals might resent such laws, feeling that their loss of privacy far outweighs the alleged gain in security; but others might have it the other way around. This shows that different individuals may not endorse the warrants invoked in practical argumentation with the same *degree of strength*. The strength of the value concepts on which practical argumentation relies for its warrants is subjective; in a slightly less provocative term, it is audience-relative. This is a fundamental fact in practical argumentation, yet several leading thinkers in state-of-the-art argumentation theory have failed to recognize it and have roundly condemned those theorists, notably Perelman, who have provided a place of honour in their theories for this fact. (We can now see that the reason Perelman provided a place for it is that his theory is really about practical argumentation, whereas the theory of his harshest critics – the pragma-dialecticians – is really about theoretical argumentation.) The failure to recognize this is one instance of the grave misunderstandings caused by an underlying failure to respect the distinction between theoretical and practical reasoning.

Although value concepts are not held with equal strength by all individuals, it is probably true that most people in a culture do have most of their value concepts in common. Yet each individual probably also holds some values *not* shared by a majority. And just as importantly, we have seen that they do not agree on the *relative* priorities between the values that they do share.

Yet another complication is that the set of values held by a given individual, and even that subset of these values which are shared by practically everyone in the culture, are not necessarily in harmony with each other. The philosopher Isaiah Berlin has talked about the "pluralism" of values, meaning that "not all good things are compatible, still less all the ideals of mankind." For example, he points out "that neither political equality nor efficient organization nor social justice is compatible with more than a modicum of individual liberty, and certainly not with unrestricted *laissez-faire*; that justice and generosity, public and private loyalties, the demands of genius and the claims of society can conflict violently with each other" (1958, repr. 1998, 238).

Of course this is something that ordinary human beings have always

known in an intuitive way. Practical philosophers, such as Cicero, who was a rhetorician as well, have known it too. He writes:

between those very actions which are morally right, a conflict and comparison may frequently arise, as to which of two actions is morally better — a point overlooked by Panaetius. For, since all moral rectitude springs from four sources (one of which is prudence; the second, social instinct; the third, courage; the fourth, temperance), it is often necessary in deciding a question of duty that these virtues be weighed against one another. (*De officiis* 1.63.152.)

But philosophers, beginning with Plato and including many in recent decades who have become argumentation theorists, tend to theorize as if all values *were* compatible and did *not* clash. Or at least as if the lack of compatibility between them was no real problem. They tend to think, for example, that if we can agree that something is good, then it follows that we must have it, or do it. Philosophers have concentrated on figuring out what it meant for a thing to be good, and on arguing about what things are truly good in a general sense, and have given less thought to situations where many different things are indeed good, but where we cannot have them all at the same time. However, this is a kind of situation we face every day in our lives.

True enough, some philosophers have indeed worked on this issue, but their thinking has either run along the lines of Plato's insistence that virtue and well-being are in fact one and the same value, or they have, like Jeremy Bentham and John Stuart Mill, believed that they could order all human action by applying the rule of the greatest happiness for the greatest possible number. That would indeed be convenient, but it would require what Mill calls a "common umpire" to settle the claims between the incompatible values. In other words, there would have to be a universally agreed common unit or denominator so that the advantages a given action might have in regard to a certain value might be objectively converted into happiness and weighed against the unhappiness caused by the drawbacks the action might have in regard to another value; for example, for legislation involving an invasion of privacy, that drawback would have to be objectively measured against the alleged advantage of reducing the risk of terrorist acts, and in-

creasing the chance of solving terrorist crimes to a certain unknown degree. Unfortunately, and obviously, such a common denominator does not exist and could never be constructed; the very construction of it would be just as controversial as the debatable legislation itself. What we cannot do is what the philosopher John Finnis describes in the following words: "Aggregate the pluses, subtract the minuses, and pursue the option with the highest balance." (1998, 216.) It is impossible because the relevant arguments in any practical issue usually belong to different *dimensions*. There *is* no common denominator or unit by which they can all be objectively compared and computed. They are, to use a mathematical term, incommensurable.

So we have at least three fundamental reasons why practical argumentation works in a different way from theoretical argumentation: There is, first, the *subjectivity* of the value concepts which are the necessary warrants when we discuss what actions to take; secondly, there is the *incompatibility* of all human values, and thirdly, we now also face what some recent philosophers have recently called their ultimate *incommensurability* (see, e.g., Griffin 1977, Raz 1998, Finnis 1998). There *is* no objective or philosophical way to compute the advantages and drawbacks of proposed human actions and weigh them up against each other.

This does not mean that all possible actions are equally good, or that there is no point in discussing what to do, or in choosing one action over another. What it means is merely that we have no *objective* method of *calculating* what to choose. In fact, if we had such a method, we would have no choice; our "choices" would be made for us beforehand. Choice means precisely that we may legitimately elect to do either one thing *or* another. But that there is choice surely does not mean that we might as well not choose anything, or that there is no reason to debate our upcoming choices. The point is that each individual has the right to choose, and that no one has the right or the authority to choose on everyone's behalf. Nor is there any way for philosophy to determine in a compelling manner (i.e., by inference) what the right policy is.

Yet individuals must choose, and choice makes it desirable that they have in fact balanced or weighed the advantages and drawbacks of the possible decisions facing them or their society. Now this 'weighing' process, while it is not possible in an objective or inter-subjective way, is still necessary *and* possible for the individual. The balancing process in matters where a body

of individuals must choose between actions within their power is called deliberation. This is an appropriate term, since it comes from the Latin word *libra*, meaning a pair of scales. Given the individual's value concepts (which we remember are in principle subjective) and the choices as they appear to him, one of the alternatives may eventually, after weighing the advantages and drawbacks, appear preferable to him. The same alternative may not appear preferable to his neighbour, or to the majority of citizens. But then the individual is free to try to influence his neighbours so that they may eventually come around and see things his way. This kind of influence is usually exerted by means of language and is called rhetoric.

The three distinctive features of practical argumentation just enumerated: the subjectivity of the values on which it depends, their incompatibility, and their incommensurability, as well as the approach to these notions taken in the rhetorical tradition, have been more fully discussed in Kock (2003b) and Kock (2007).

We may now look at some distinctive features of practical argumentation not captured by models or theories designed for theoretical argumentation. Let us remember the categorical difference between what we argue about in the two domains. Theoretical argumentation is about propositions that may be true or false. Practical argumentation is about what to do, and whatever we do does not have the property of being true or false. We argue about proposals, not propositions.

First, the status of reasons is different in the two domains. Practical pro and con reasons, as we saw, represent advantages and drawbacks of competing policies; they remain valid and are not made invalid even if one policy is chosen over another. We choose a given policy because we place a high value on its alleged advantages, but the possible drawbacks inherent in that policy do not lose their validity or cease to exist.

Let us take one simple example drawn from the micro-politics of family life. One family member, let us call him F, wants to buy a large Chesterfield armchair for the family room. He argues that such a chair is highly comfortable and suitable for TV watching and generally chilling out. Another family member, let us call her M, strongly opposes the plan. She agrees that such a chair is comfortable, but argues that it is ugly, heavy and very expensive indeed. F happens to acknowledge these drawbacks but thinks that the expected comfort to be had in the chair outweighs them. M thinks they do not.

The example shows how the primary pro and con reasons in deliberative argumentation have the status of advantages and drawbacks as perceived by the arguers. Notice that both F and M may well agree on all the advantages and drawbacks of the chair. For both of them, they are inherent in the plan to buy the chair. However, they disagree on *how much weight* to assign to them. And no advantages or drawbacks are refuted even if one plan conclusively defeats the other. If the scheme is conclusively abandoned, the armchair does not cease to be comfortable. If the family actually buys the chair, it remains heavy and expensive. (It is a little different with the alleged ugliness of the chair. Ugliness is an aesthetic quality, and aesthetic argumentation is a category in itself with intricacies which we will not get involved with at the moment.)

In theoretical argumentation, by contrast, pro and con reasons are only important by virtue of their probative or inferential force (or, with a word used by ‘informal logicians’ and derived from the same verb as “inferential”: their *illative* force); that is, they are important for what may perhaps be *inferred* from them, i.e., what they point to, signify or suggest, not for what they *are*. Once the issue has been decided one way or the other, the reasons supporting the discarded position lose their relevance. For example, until a few years ago doctors used to believe that ulcers were caused by stress and acidity; when two Australian doctors, Marshall and Warren, in papers in the early 1980’s, suggested that ulcers were caused by bacteria (later named *Helicobacter pylori*), they were generally disbelieved. The bacteria known around 1980 could not survive in the acidic environment of the stomach; this seemed to suggest that *no* bacteria could survive there, hence ulcers could not be caused by bacteria. However, it was soon found that certain bacteria, including the *heliobacter*, could indeed survive in the stomach. Thus the illative force of the original reasons was simply cancelled; it lost its validity. Marshall and Warren’s theory is now generally accepted; they received the Nobel Prize in 2005, and millions of patients have been cured of their ulcers. This example shows how the relevance of facts used as reasons in theoretical reasoning resides in what these facts point to, signify or suggest, that is, in their illative force, not in those facts themselves.

Second, we see that in practical argumentation both pro and con reasons may be relevant simultaneously. In other words, the advantages and drawbacks indicated by the pro and con reasons may be real and remain so.

In theoretical argumentation the pro and con reasons may also be real in themselves, but the two opposite states of affairs indicated by the pro reasons and the con reasons, respectively, may not both be real simultaneously.

Third, this means that in practical argumentation no party can be logically *proven* to be either right or wrong. This is tantamount to saying that reasons in practical argumentation can never in principle be “valid” in the traditional sense of *entailing* their conclusion, nor can they be “sufficient” to entail a conclusion. No reasons in practical argumentation *entail* the proposals for which they argue. No reasons are “sufficient.” No matter how many reasons you may muster for your proposal, your opponent is never *compelled* by those reasons to accept it. Put another way, in practical argumentation all reasons are, in principle, weights among other weights on a pair of scales. This means that in practical argumentation a set of reasons P_1 through P_n may very well be both true, relevant and weighty, and yet the conclusion (i.e., the proposal for which they argue) is not “true” (as we have noted, proposals cannot be true or false), nor does it follow by any kind of inference or entailment. Whether or not to accept the proposal is a matter of choice for each individual audience member. In theoretical argumentation, conclusive inferences do exist, and scholars and scientists are trying to find them all the time. The theory that no bacteria can live for long in an acidic environment like our stomach has been conclusively refuted.

Fourth, the strength or weight of reasons in practical argumentation is a matter of degrees. Advantages and drawbacks come in all sizes. Along with this comes the fact that practical argumentation typically persuades by degrees. An individual may gradually attribute more weight to a given reason, so he or she may gradually become more favorably disposed towards the proposal. Not so in theoretical argumentation. A medical scientist is not free to say that the existence of *heliobacter* in the stomach carries little weight in regard to whether bacteria can live in that kind of environment.

Fifth, in practical argumentation arguers should have no problem in granting that their opponents may have relevant reasons. The drawbacks that my opponent sees in my proposal may in fact be relevant, just as the advantages that I see in it, and the ones that my opponent sees in *his* proposal. Arguers may be more prone to adopt this attitude when they realize that just because you acknowledge the relevance of an opponent’s reasons, this does not entail that you adopt his proposal. In theoretical argumentation

tion one reason against a thesis may defeat it. Unfortunately public debaters seem to believe this is also the case in practical argumentation, and so they tend to deny that their opponents have any relevant reasons at all, even when they patently do.

Sixth, this brings us to a crucial difference between practical argumentation and theoretical argumentation. As the armchair example shows, two opponents in practical argumentation will not necessarily tend towards consensus, let alone reach it, even if they follow all the rules we may devise for responsible and rational discussion. They may legitimately support contradictory proposals, and continue to do so even after prolonged discussion.

In theoretical argumentation, prolonged and rule-obeying discussion must eventually or tendentially lead to consensus. Doctors who believe that bacteria cause the majority of ulcers and doctors who believe that they don't cannot both be right. But one of the parties has to be right. There is a truth somewhere about the matter, and the goal is to find it. So prolonged disagreement in, e.g., medical science over an issue like that is an unstable and unsatisfactory state.

Rules of critical discussion, as we find them in particular in pragma-dialectics, are devised to ensure that discussions proceed toward the goal which pragma-dialecticians as well as Habermas and his followers postulate for them: a resolution of the difference of opinion, or in another word: consensus.

We should have such rules by all means. We all know the depths to which public political argumentation often descends. But again, individuals may legitimately differ over some practical proposal, and *continue* to do so, even after a prolonged discussion that follows all the rules. This is due to the fact that although most norms in a culture are shared by most of its members, not all their norms are the same, and furthermore everyone does not subscribe to the same *hierarchy* of norms. In other words, as we saw in the armchair example, for some people an appeal to one norm carries more weight than an appeal to another norm, whereas for another individual it is the other way around – even when they in fact share both norms. Hence they may never reach consensus on what to do, no matter how reasonably they argue.

So in practical argumentation consensus is not the inherent goal, and it becomes legitimate, in a sense not accounted for by Habermas, for both

individuals in such a discussion to argue in order to achieve success for his or her proposal, rather than consensus. In deliberation, dissensus is not an anomaly to be corrected. Instead of trying to prove the opponent wrong the wise deliberative debater will often acknowledge that the opponent has some relevant reasons, but nevertheless try to make his own reasons outweigh them in the view of those who are to judge. This kind of discourse is the essence of rhetoric.

Seventh: The last characteristic of practical argumentation we shall look at has to do with what we just saw. In practical argumentation arguers argue in order to persuade individually. The weight of each reason is assessed subjectively by each individual arguer and spectator, and each individual must also subjectively assess the aggregate weight of all the relevant reasons; it follows from this that what will persuade one individual will not necessarily persuade another. In theoretical argumentation, by contrast, there is an underlying presumption that whatever is valid for one is valid for all. Admittedly, it is also a fact that a theoretical proposition will only be accepted by some, not by all; but the presumption of any philosophical theory is that it presents a truth which is valid for all. Practical arguers make no such presumption, but hope to persuade *some* individuals to adopt the proposal they support. That is also why we tend to have a vote on practical proposals, but not on propositions. A majority cannot decide what the truth is; but it can decide what a body of people will do.

So the nature of practical argumentation is controversy, not consensus. It is good if antagonists can find a way to what John Rawls (1993) calls an overlapping consensus, but they might not, and it is legitimate that they remain at odds. In theoretical argumentation continued dissensus means that uncertainty still prevails, and debate must continue until consensus is reached. In practical argumentation dissensus may persist indefinitely because values differ, and this is legitimate.

But why have argumentation at all if not in order to find consensus or at least move toward it? What other purpose could argumentation between two antagonists possibly have? And how could it have such a function, whatever it is?

To answer these questions one has only to think of a factor that is curiously left out of most current theories of argumentation as well as theories of the public sphere and deliberative democracy: the audience. It is prima-

rily for the sake of the audience that debates between opponents in practical argumentation make sense. A public sphere consists not only of participants, but also, and primarily, of spectators. They are individuals who are all, in principle, entitled to choose freely which of two or more alternative policies they find preferable. In order to choose they need information on their alleged advantages and drawbacks, on how real, relevant, and weighty they appear in the light of their respective value systems.

A crucial factor in this assessment is that both debaters must always answer what their opponent has to say. Any reason either pro or con offered by one debater must have a reply from the opponent, who should either acknowledge its relevance and weight or give reasons why its relevance and/or weight should be downgraded. Listening to this kind of exchange will help each audience member form his own assessment of how relevant and weighty the reasons on both sides are. This is how continued dissensus and controversy may be constructive without ever approaching consensus.

It is an old assumption in rhetorical thinking that rhetorical debate is constructive not only in helping debaters motivate and perhaps propagate their views, and not only in helping audience members build an informed opinion, but also in building society. Isocrates and Cicero are among the chief exponents of this vision. We cannot all agree on everything, but we can build a cohesive society through constructive controversy.

It is worth noting, in conclusion, that in political science and philosophy there is a growing body of scholarship and opinion arguing for a conception of democracy based on a recognition of dissensus rather than consensus. For example, Rescher (1993) is resolutely pluralist and anti-consensus, in theoretical as well as practical reasoning. There are determined “agonists” such as Honig (1993) and Mouffe (e.g., 1999, 2000, 2005), as well as thinkers who emphasize the centrality of “difference” in democracy (such as Young, e.g., 1997). Gutmann & Thompson take a balanced view, emphasizing deliberation as well as pluralism: “A democracy can govern effectively and prosper morally if its citizens seek to clarify and narrow their deliberative disagreements without giving up their core moral commitments. This is the pluralist hope. It is, in our view, both more charitable and more realistic than the pursuit of the comprehensive common good that consensus democrats favor” (2004, 29). Dryzek too is cautiously balanced in arguing that the ideal of deliberative democracy must recognize dissensus: “Discur-

sive democracy should be pluralistic in embracing the necessity to communicate across difference without erasing difference" (2002, 3). All these thinkers acknowledge the need for continued exchange among citizens of views and reasons, despite the impossibility (or undesirability) of deliberative consensus.

Few seem to realize that rhetoric has always existed in this democratic tension: we cannot force agreement, but we can and should present reasons to each other for the free choices we all have to make. As Eugene Garver has said: "The more we take disagreement to be a permanent part of the situation of practical reasoning, and not something soon to be overcome by appropriate theory or universal enlightenment, the more rhetorical facility becomes a central part of practical reason" (2004, 175).

Continuing dissensus is an inherent characteristic of practical argumentation. In the rhetorical tradition this insight has always been a given. In contemporary political philosophy it is by now perhaps the dominant view. Argumentation theory should not be so specialized that it remains ignorant of these facts.

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